

FAILING TO DAMAGE MUELLER, GOP NOW CLAIMING MUELLER NOT SUFFICIENTLY VIGOROUS TO OVERSEE TRUMP INVESTIGATION

Robert Mueller just finished the first of two hearings today.

At times he appeared like those of us who have covered him for years expected, feisty and sharp. Between his responses to Jerry Nadler and Ted Lieu, he made it clear he would have indicted if not for the OLC opinion prohibiting the indictment of a sitting president, even while he refused to say the word impeachment. He repeatedly said that a failure to succeed at obstructing justice is still a crime. He stated that the decision not to reach a prosecutorial decision arose because this investigation is unlike any other, in that Trump couldn't be prosecuted. He stated that Trump could be charged after he left office.

He defended the integrity of his team and the fairness of his report. He backed his March 27 letter that complained about Attorney General Bill Barr's misrepresentation of the report.

In short, Mueller made it clear that he believes Trump obstructed justice and Bill Barr lied to obscure that fact.

But at times, he seemed lost. He forgot that Ronald Reagan appointed him US Attorney, often searched to see who was asking questions, and forgot key details. It didn't help, either, that he refused to read from the report (though that was a pre-arranged refusal to create soundbites at the behest of Democrats).

Having not damaged Mueller, then, the

Republicans are already out suggesting that the Robert Mueller that appeared out of it today could not have been fully in charge of the investigation into Donald Trump.

Mueller's performance raised questions that reached far beyond one appearance before one committee. It called into doubt the degree to which Mueller was in charge of the entire special counsel investigation.

"You wonder how much of this was affecting the investigation," one Republican member of the House said as he watched Mueller's testimony. "It sheds a lot of light on what happened the last two years. He wasn't in charge."

If Mueller was not fully in charge, that would direct attention to the staff he assembled for the investigation – staff that President Trump has often derided as "17 angry Democrats." Some of Mueller's aides were Democratic donors, and a key aide, Andrew Weissmann, famously attended Hillary Clinton's 2016 election night event that was planned as a victory party. It seems likely that Republicans will direct new attention to them in light of Mueller's appearance.

Except that representation misstates something that was litigated, all the way to the Supreme Court, in this case. Robert Mueller wasn't in charge of this investigation. His supervisor – whether it be Rod Rosenstein, Matt Big Dick Toilet Salesman Whitaker, or Bill Barr – was ultimately in charge of the investigation.

And if it is true that Robert Mueller wasn't all there when he was leading this investigation, it was up to his supervisor to do something about it.

Indeed, if you look at some of the big questions about Mueller's prosecutorial decisions – most

notably, not to demand an interview with the President, but also the decision to stop the investigation before even getting the Andrew Miller testimony or Mystery Appellant evidence – you might wonder whether someone feistier would have fought for that testimony.

Republicans are, minutes after the conclusion of that hearing, complaining that Robert Mueller wasn't forceful enough in his testimony. If that's the question they want to raise, then they should also worry about whether Bill Barr, especially, manipulated Mueller.